

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| EUGENE LEWIS MARKLEY, JR., | : | CIVIL ACTION |
| | : | |
| Petitioner, | : | NO. 11-1834 |
| | : | |
| v. | : | |
| | : | |
| JOHN MURRAY, et al., | : | |
| | : | |
| Respondents. | : | |

ORDER

AND NOW, this 21st day of November 2011, upon consideration of the Petition for the Writ of Habeas Corpus (Doc. No. 1), Respondent District Attorney of Lancaster County's Answer to Petition for the Writ of Habeas Corpus (Doc. No. 8), the Report and Recommendation filed by United States Magistrate Judge M. Faith Angell (Doc. No. 9), and after an independent review of the pertinent record, it is ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED. The Court agrees with the Report and Recommendation that Petitioner has procedurally defaulted on his claims and has not met his burden of establishing circumstances that excuse his default. Title 28 United State Code Section 2244(d) imposes a one-year statute of limitations on a state prisoner seeking habeas relief, which Petitioner failed to meet. Additionally, Petitioner did not establish any basis warranting statutory tolling of the habeas limitations period pursuant to 28 U.S.C. § 2244(d)(2). Finally, he did he assert any grounds for equitable tolling of the habeas limitations period. See Brown v. Shannon, 322 F.3d 768, 773 (3d Cir. 2003), *cert. denied*, 123 S.Ct.2617 (2003).

2. The Petition for the Writ of Habeas Corpus (Doc. No. 1) filed pursuant to

28 U.S.C. § 2254 is DENIED and DISMISSED.

3. All outstanding motions are DENIED AS MOOT.

4. Petitioner has neither shown a denial of a constitutional right, nor established that reasonable jurists would disagree with this Court's disposition of his claims. Consequently, a certificate of appealability is DENIED.

5. The Clerk's Office shall close this case.

BY THE COURT:

/s/ Joel H. Slomsky, J.
JOEL H. SLOMSKY, J.